

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
TERRENCE CLARKE,

Plaintiff,

Index No.:

VERIFIED COMPLAINT

-against-

THE CITY OF NEW YORK and DAMON FORD,

Defendants.

-----X

Plaintiff, by his attorneys, **BREADBAR, GARFIELD & SCHMELKIN**, hereby set forth and allege, upon information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. That, at all times hereinafter mentioned, and on July 21, 2010, the plaintiff, **TERRENCE CLARKE**, was and still is a resident of the County of Bronx, City and State of New York.

2. That, at all times hereinafter mentioned, and on July 21, 2010, the defendant, **THE CITY OF NEW YORK**, (hereinafter referred to as "**THE CITY**") was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

3. That, at all times hereinafter mentioned and on July 21, 2010, the defendant, **DAMON FORD**, (hereinafter referred to as "**FORD**") was and still is a resident of the City and State of New York.

4. That the plaintiff, **TERRENCE CLARKE**, has complied with all of the conditions precedent to the commencement of the

within action against the defendants; plaintiff's Notice of Claim having been served upon the defendant, **THE CITY**, on October 8, 2010, and a letter of explanation/"Amended Notice of Claim" was served on October 15, 2010, both within ninety (90) days of the date that the within cause of action were caused to accrue; that thirty (30) days have elapsed and this claim remains unpaid and unadjusted; that the plaintiff, **TERRENCE CLARKE**, testified at an oral examination, pursuant to the General Municipal Law, on December 23, 2010; and that this action is being commenced herewith within one (1) year and ninety (90) days from the date that the within cause of action was caused to accrue.

5. That, at all times hereinafter mentioned and on July 21, 2010, and for sometime thereafter, defendant, **FORD**, was a New York City police officer, and/or agent servant and/or employee of the defendant, **THE CITY**, working in the scope and course of his employment as a New York City Police Officer, and was employed by the defendant, **THE CITY**.

6. That, on July 21, 2010, the plaintiff, **TERRENCE CLARKE**, was assaulted/battered by the defendant, and/or defendants by and through their agents, servants and/or employees.

7. That, the plaintiff, **TERRENCE CLARKE** was assaulted/battered without justification and without cause and without excuse.

8. That, the assault/battery took place while the plaintiff, **TERRENCE CLARKE**, was in Apartment 6A of premises known

as 810 Soundview Avenue and other locations in the County of Bronx, City and State of New York, wherein the plaintiff, **TERRENCE CLARKE**, was held against his will by the defendant and/or defendants, their agents, servants and/or employees.

9. That, the aforementioned assault and battery of the plaintiff, **TERRENCE CLARKE**, was carried out by police officers and/or other servants, agents and/or employees of the defendant, and/or defendants.

10. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

11. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions, as well as the defendants having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

12. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A SECOND CAUSE OF ACTION

13. That the plaintiff, **TERRENCE CLARKE**, repeats, reiterates, and realleges, each and every allegation as set forth

in paragraphs 1 through 12 with the same force and effect as if hereinafter more fully set forth at length herein.

14. That, all of the aforementioned acts, committed by police officers, servants, and/or other employees of the defendant, **THE CITY** were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, **THE CITY**.

15. That the defendant, **THE CITY**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants and/or other employees, who were employed by the defendant, **THE CITY**.

16. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, **FORD**, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, **THE CITY**.

17. That, the defendant, **THE CITY**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, **FORD**, who was employed by the defendant, **THE CITY**.

18. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

19. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

20. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A THIRD CAUSE OF ACTION

21. That the plaintiff, **TERRENCE CLARKE**, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 20 with the same force and effect as if hereinafter more fully set forth at length herein.

22. That, on July 21, 2010, the plaintiff, **TERRENCE CLARKE**, was caused to be falsely arrested and falsely imprisoned without probable cause.

23. That, the plaintiff, **TERRENCE CLARKE**, was arrested without an arrest warrant.

24. That, the false arrest/false imprisonment took place while the plaintiff, **TERRENCE CLARKE**, was in Apartment 6A of premises known as 810 Soundview Avenue, in the County of Bronx, City and State of New York and other locations, wherein the plaintiff, **TERRENCE CLARKE**, was held against his will by the defendant and/or defendants, their agents, servants and/or employees.

25. That, the aforementioned false arrest and false imprisonment of the plaintiff, **TERRENCE CLARKE**, was carried out by police officers and/or other servants, agents and/or employees of the defendant, **THE CITY**.

26. That, the aforementioned false arrest and false imprisonment of the plaintiff, **TERRENCE CLARKE** was carried out by defendant, **FORD**, and/or other servants, agents and/or employees of the defendant, **THE CITY**.

27. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

28. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions as well as the defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

29. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A FOURTH CAUSE OF ACTION

30. The plaintiff, **TERRENCE CLARKE**, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 29, with the same force and effect as if hereinafter more fully set forth at length herein.

31. That, the aforementioned false arrest and false imprisonment of the plaintiff, **TERRENCE CLARKE**, was caused due to a malicious prosecution of the plaintiff, **TERRENCE CLARKE**, without probable cause, without reasonable cause, and without color of the law.

32. That, the arresting and investigating police, who were police officers, and/or other agents, servants or were other employees of the defendant, **THE CITY**, failed to make a proper and thorough investigation of the facts, failed to make proper inquiries resulting in the false arrest and false imprisonment of the plaintiff, **TERRENCE CLARKE**, was maliciously prosecuted without probable cause, without reasonable cause, and without color of the law.

33. That, upon information and belief, all criminal charges against the plaintiff, **TERRENCE CLARKE**, were ultimately dismissed on September 22, 2010.

34. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

35. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions as well as the defendant and/or defendants, having acted in reckless disregard for the safety of others.

36. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A FIFTH CAUSE OF ACTION

37. The infant plaintiff, **TERRENCE CLARKE**, repeats, reiterates, realleges, each and every allegation as set forth in paragraphs 1 through 36, with the same force and effect as if hereinafter more fully set forth at length herein.

38. That by reasons of the allegations as set forth in all of the aforementioned causes of actions, including, but not limited to the plaintiff's false arrest, false imprisonment, assault and battery, plaintiff's malicious prosecution, as well as due to the negligence of the defendant and/or defendants, in the negligent hiring, negligent retention, and negligent training of

its various employees and/or police officers, plaintiff, **TERRENCE CLARKE**, was caused to have his civil rights violated by the defendant and/or defendants, herein.

39. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

40. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

41. That, by reason of the foregoing, the plaintiff, **TERRENCE CLARKE**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

WHEREFORE, plaintiff, **TERRENCE CLARKE** demands judgment against the defendants on the First, Second, Third, Fourth and Fifth Causes of Action in an amount in excess of the jurisdictional limits of all of the lower courts of the State of New York; together with interest, as well as the costs and disbursements of these causes of action.

Dated: New York, New York
March 28, 2011

Yours, etc.

BREADBAR, GARFIELD & SCHMELKIN

Attorneys for Plaintiff

TERRENCE CLARKE

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/sa

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

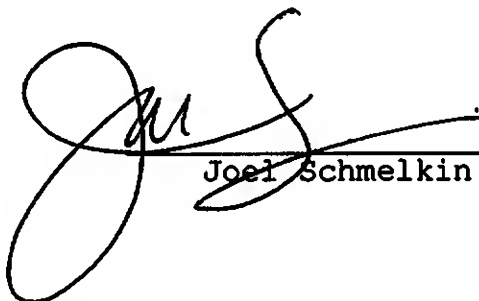
The undersigned, an attorney admitted to practice in the Courts of New York State, shows:

Affiant is one of the attorneys of record for the plaintiff in the within action; Affiant has read the foregoing **COMPLAINT** and knows the contents thereof; the same is true to affiant's own knowledge, except as to the matters therein stated to be alleged on information and belief and that as to those matters, affiant believes it to be true. This verification is made by affiant and not by the plaintiff for the reason that the plaintiff is not within the County where your affiant maintains his office.

The grounds of affiant's belief as to all matters not stated upon affiant's knowledge are as follows:
Communications by the plaintiff and the contents of affiant's file.

The undersigned affirms that the foregoing statements are true, upon information and belief, under the penalties of perjury.

Dated: New York, New York
 March 28, 2011


Joel Schmelkin